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10/699,956	11/03/2003	Michael A. McLeod	COS-926 (APIP-1125US)	5094

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EXAMINER

VARGOT, MATHIEU D

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1732

DATE MAILED: 03/14/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/699,956
Filing Date: November 03, 2003
Appellant(s): MCLEOD ET AL.

Tenley R. Krueger
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed January 30, 2006 appealing from the Office action mailed July 7, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct. However, upon closer review of claim 53, it is submitted that the language therein of "about 0" indicates that some is present and hence obviates the 112 rejection on this claim, which is hereby vacated.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on August 20, 2005 has not been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,245,857	SHAMSHOUM et al	6-2001
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 43, 44, 48, 52, 53, 56, 64 and 66-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Shamshoum et al (see column 4, lines 29-32; Examples 1 and 2 in Table 3).

Shamshoum et al discloses the instant method of casting a film comprising a syndiotactic propylene (sPP), the sPP being a homopolymer since no other moiety is mentioned, and wherein the film is cast at a film line speed of 30.5 m/min (ie, 100.07 ft/min). The temperature (see col. 4, line 32) of the chill roll is 15.6 deg C, which is 60 deg F, thereby meeting claim 48. The additives are present as disclosed at column 3, lines 45-54 and the fluoropolymer at column 2, line 58. The properties set forth in instant claims 64, 66 and 67 are found in Table 3. The thickness of the cast film is disclosed (col. 4, line 31) as .08 mm, which is 3.15 mils. The film of instant claim 71 is submitted to also be met, in that the film of the applied reference clearly contains the instant homopolymer of sPP. Claim 71 is considered to be broad enough to be encompassed by a film with some amount of sPP, and Shamshoum et al discloses this.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 45-47, 49-51, 54, 55, 57-63 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shamshoum et al.

The applied reference discloses the basic claimed method as set forth supra lacking essentially a clear showing of the instant casting and cast roll temperatures,

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exact concentration of processing aid, coefficient of friction of the film, maximum tensile strength of the film and 20 degree gloss of the film. Based on the general process parameters disclosed at column 4, lines 29-32 and the film properties shown in Table 3, it is respectfully submitted that these values would have all been within the skill level of the art. Casting and chill roll temperatures are result effective variables which would have been readily determined through routine experimentation. The exact concentration of the processing aid and inclusion of fluoropolymers would likewise have been result effective variables readily determined. Table 3 shows maximum tensile strengths of up to 24.7 MPa, which would be 3582 pounds per square inch. The instant values as set forth in claims 61-63, while higher than this, are submitted to have been obvious thereover dependent on degree of orientation/stretching during the casting.

(10) Response to Argument

Appellant's main argument is that the applied reference teaches highly isotactic polypropylene (iPP) films and that the instant invention is directed to the making of a "homopolymer of syndiotactic (sPP) film". However, it is respectfully submitted that the broadest (and in fact all) method claim(s) only require casting a film "comprising" such a homopolymer, which Shamshoum et al clearly does. Hence, even though the film produced therein is not all sPP, it does comprise sPP and hence reads on the claims. The film claim (ie, claim 71) is no more specific, in calling for a "homopolymer of syndiotactic propylene (sPP) film cast at...". The film of Shamshoum et al constitutes

such a film. Note that the claims are not limited to the formation of a film or a film "consisting of" or "consisting essentially of" sPP, but merely that the film contains some amount of sPP. Shamshoum et al teaches this. It is noted that appellant had filed an amendment after final limiting the claims to "consisting essentially of" language, but such was not entered due to new issues at that point. It is respectfully submitted that the instant claims are properly rejected over Shamshoum et al as they currently stand.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

MDV *MDV*

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